

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Melissa Gilvin, <i>et al.</i> ,	:	
	:	Case No. 1:18-cv-107
Plaintiffs,	:	
	:	Judge Susan J. Dlott
v.	:	
	:	Order Denying Motion for
FCA US, LLC, <i>et al.</i> ,	:	Leave to Amend
	:	
Defendants.	:	

This case has been referred to Magistrate Judge Stephanie K. Bowman for all pretrial and post-judgment motions and procedures, whether dispositive or not, pursuant to 28 U.S.C. § 636. Pending before the Court are Plaintiffs' Motion for Leave to Amend (Doc. 32), the Magistrate Judge's Report and Recommendation ("R&R") (Doc. 56) recommending denial of the Motion for Leave to Amend, and Plaintiffs' Objections to the R&R (Doc. 60). Plaintiffs seek leave to file their proposed Second Amended Complaint (Doc. 32-2). For the reasons that follow, the Court will adopt the Magistrate Judge's recommendation and deny Plaintiffs leave to amend.

I.

Magistrate judges are authorized to decide dispositive and non-dispositive matters pursuant to 28 U.S.C. § 636 and Rule 72 of the Federal Rules of Civil Procedure. If a party timely files objections to a magistrate judge's decision on a nondispositive matter, the district judge must "modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a). The clearly erroneous standard applies to a magistrate judge's findings of fact and the contrary to law standard to her conclusions of law. *See Gandee v. Glaser*, 785 F. Supp. 684, 686 (S.D. Ohio 1992), *aff'd*, No. 92-3304, 1994 WL 83265 (6th Cir. Mar. 14, 1994). The district judge must conduct a de novo review of a magistrate judge's

recommendation on a dispositive motion. *Baker v. Peterson*, 67 F. App'x 308, 310 (6th Cir. 2003). The Sixth Circuit has not determined whether motions to amend are dispositive or non-dispositive, but several district courts have treated the motions as non-dispositive. *See, e.g., Crangle v. Eppinger*, No. 5:13 cv 842, 2018 WL 1621247, at *1 (N.D. Ohio Apr. 4, 2018); *F.H. v. Shelby Cty. Schs.*, No. 2:12-cv-02312, 2016 WL 10637101, at * 1 (W.D. Tenn. Dec. 30, 2016); *Rogers v. AK Steel Corp.*, No. C-1-96-987, 1998 WL 1753590, at *2 (S.D. Ohio Apr. 16, 1998).

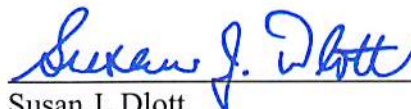
II.

The Court has reviewed the R&R, examined the parties' briefs, and analyzed the legal arguments therein. Even under a de novo review, the Court agrees with Magistrate Judge Bowman that leave to file the proposed Second Amended Complaint should be denied. Plaintiffs have moved to amend in an untimely and prejudicial fashion given the specific procedural history of this case. Moreover, Plaintiffs' new and amended claims are futile as written. Accordingly, the Motion for Leave to Amend is **DENIED**, the Report and Recommendation is **ADOPTED**, and the Plaintiffs' Objections are **OVERRULED**.

IT IS SO ORDERED.

Dated this 18th day of November, 2019.

BY THE COURT:



Susan J. Dlott
United States District Judge